

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 997 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CHHAGANLAL HANSRAJ THAKKER

Versus

UNITED CO-OPERATIVE BANK LTD.

Appearance:

FRESH NOTICE REQD. for Petitioner
SERVED for Respondent No. 1
NOTICE NOT RECD BACK for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 04/10/96

ORAL JUDGMENT

The matter was called out for hearing in the first round, then in the second round and lastly in the third round, but none present on behalf of the petitioner. Perused the Special Civil Application.

2. The matter has arisen out of arbitration suit against the petitioner. The respondent No.2 obtained a

loan from the respondent No.1-Bank and the petitioner stood surety for the respondent No.2 for the said loan. The respondent No.2 has not paid the said amount which led the bank to file arbitration suit. This suit has been decreed by the Board of Nominees on 10th January 1984. Against the judgment, the petitioner filed an appeal before the Tribunal which came to be dismissed for default on 2.12.85. The petitioner filed application for restoration of appeal which has been allowed on 4.2.86 subject to condition of depositing 25% of decretal amount. This order is challenged before this Court by the petitioner. This Court has made order on 6.3.86, which reads as under:

"Rule. Stay of the operation of the order directing the petitioner to deposit 25% of the decretal amount within 15 days from the date of the judgment. It will be open to the Tribunal to decide the appeal on merits without insisting for the aforesaid condition."

3. In view of the aforesaid order, it was left open to the Tribunal to decide the appeal on merits without insisting for deposit of 25% of decretal amount. Ten years have already passed and by now this appeal would have been decided. However, nobody is here to give out whether the appeal is decided or not. In view of this fact, I consider that interest of justice will be met in case this Special Civil Application is disposed of in terms of interim relief granted by this Court. However, it is made clear that in case the appeal has already been decided, then this Special Civil Application shall stand dismissed as having become infructuous. Rule disposed of accordingly. No order as to costs.

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(sunil)